

October 31, 2016

Mr. Devin Leary  
Human and Rohde, Inc.  
512 Virginia Avenue  
Towson, Maryland 21286

Re: Church of the Resurrection  
Forest Conservation Variance  
Tracking # 02-16-2328

Dear Mr. Leary:

A request for a variance from the Baltimore County Code, Article 33, Title 6, the Forest Conservation Law, was received by this Department of Environmental Protection and Sustainability (EPS) on October 7, 2016. The request would allow critical impacts to three of the seven specimen trees on the property for the proposed expansion of the congregation. The application of the Forest Conservation Law is associated with a proposed 13,605 square foot addition to the existing church and school as well as enlarging the existing parking lot and providing current Environmental Site Design (ESD) and 100-year stormwater management (SWM). The vast majority of the limit of disturbance occurs on lawn and previously utilized areas. Two of the specimen trees to be impacted are Silver Maples (*Acer saccharinum*) in fair condition within the existing septic reserve area (SRA), and the third is a Chestnut Oak (*Quercus prinus*) in poor condition in the vicinity of the proposed SWM outfall. This project is otherwise complying with the full extent of the law including the combined 2.1 acres of afforestation and reforestation for clearing 0.6-acre of isolated early successional forest to be addressed offsite at an EPS-approved location and/or by payment of a fee-in-lieu.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the criteria under Subsection 33-6-116(d) must be met, and all three of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to make improvements to a

church property that existed prior to the effective date of the Forest Conservation Law. While these proposed improvements may be necessary to replace outdated or outgrown facilities, disallowing them as a result of full application of the law would not deny the petitioner of all beneficial use of this property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposed site improvements and specimen tree impacts are due to unique circumstances associated with the location of the specimen trees in relation to this long standing institutional use rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed improvements are minor and consistent with the long-standing church and will not alter the essential character of the neighborhood. Consequently, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. This redevelopment and expansion project is far removed from any riparian resources and their buffers and will comply with current ESD and SWM regulations. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property necessitating this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of three specimen trees, two of which are within an existing SRA, for the improvements to an existing church property would be consistent with the spirit and intent of the Forest Conservation Law given that the project is retaining four of seven specimen trees and providing 2.1 acres of combined afforestation and reforestation offsite. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. No mitigation is required for the removal of the three specimen trees as they are either within forest, septic reserve area, or are in poor condition. However, please note that the 2.1 acres of afforestation and reforestation will have to be provided prior to Environmental Agreement (EA) or grading permit approval, whichever comes first. An offsite bank authorization letter, the execution of which shall serve as documentation of this purchase, will be provided in subsequent correspondence.
2. Impacts to the critical root zones of the specimen trees to remain, especially Specimen Tree # 2, shall be minimized through the use additional protective measures to be detailed on the approved, final Forest Conservation Plan. Therefore, prior to issuance of any Baltimore County permit, blaze orange high visibility construction fence shall be installed along the limit of disturbance wherever the limit of disturbance is within 50 feet of any or the critical root zone (CRZ) of any specimen tree to remain. This fence shall be inspected and approved by EPS staff prior to grading permit issuance. The protective fence shall also be illustrated in plan view and its installation and inspection included in the sequence of operations on both the sediment control and final Forest Conservation Plans (FCP).
3. The following notes must appear on all subsequent plans for this project:
  - “A special variance was granted on October 31, 2016 to Baltimore County’s Forest Conservation Law to allow permanent impacts to three specimen trees onsite. Conditions were placed on this variance, including protection of the remaining specimen trees onsite.”
  - “A special variance to Baltimore County’s Forest Conservation Law may be required for future removal of any remaining specimen trees on this property.”
4. A final FCP addressing the conditions of this variance as well as the requirements of Section 33-6-110 must be submitted to EPS and approved prior to EA approval or permit issuance.
5. This variance approval does not exempt future development activities at this site from compliance with Baltimore County’s Forest Conservation Law.

Mr. Devin Leary  
Church of the Resurrection  
Forest Conservation Variance  
October 31, 2016  
Page 4

It is the intent of this Department to approve this variance subject to the conditions on the previous page. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Michael S. Kulis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/msk

c. Marian Honeczy, Maryland DNR

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Property Owner's Representative's Signature Date

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Property Owner's/Representative's Printed Name